

REMARKS

Applicants respectfully requests entry of the amendments and remarks submitted herein. Claims 1 and 6 are amended and claims 11-20 are canceled. Thus, claims 1-10 are pending.

Claims 1 and 6 have been amended to correct a typographical error. The scope of claims 1 and 6 was not narrowed by this amendment. Accordingly, the claims are entitled to a full scope of equivalents.

Figure 5 was objected to for lacking a legend. An amended Figure 5 is enclosed herewith. Support for the amendment to the drawing can be found in the specification at page 13, lines 21-23.

Claims 16-20 were objected to for being duplicates of claims 11-15. Claims 11-20 have been canceled.

Claims 11-20 were rejected under 35 U.S.C. §102(b) as being anticipated by Bernfield et al. (US 6,028,061). Claims 11-20 have been canceled.

Claims 1-10 were rejected under 35 U.S.C. §103(a) as being unpatentable over Bernfield et al. (US 6,028,061) in combination with Zetter (Annu. Rev. Med. 1998, 49, 407-424). This rejection is respectfully traversed.

Independent claim 1 is directed to a method of treating cancer in a host. Independent claim 6 is directed to a method of treating a host by inhibiting an increase in the volume or mass of a tumor.

To establish a *prima facie* case of obviousness, the Examiner has the burden to establish three basic elements. First, the Examiner must establish that there is some suggestion or motivation, either in the cited documents themselves or in the knowledge generally available to an art worker, to modify the documents or to combine document teachings so as to arrive at the claimed invention. Second, the Examiner must establish that there is a reasonable expectation of success. Finally, the Examiner must establish that the prior art documents teach or suggests all the claim limitations. M.P.E.P. 2143.

It is respectfully submitted that the cited documents ('061 and Zetter) would not have provided one skilled in the art with a reasonable expectation that the compounds recited in independent claims 1 and 6 would have been effective to treat cancer (claim 1) or to inhibit an increase in the volume or mass of a tumor (claim 6) in a host. Accordingly, the Examiner has failed to establish a *prima facie* case of obviousness.

The '061 patent discusses compounds that are reported to possess anti-angiogenesis properties. The '061 patent does not provide any data demonstrating that the compounds are effective to treat cancer (claim 1) or to inhibit an increase in the volume or mass of a tumor (claim 6), *i.e.* there is no cancer screening data in the '061 patent.

Zetter generally reviews angiogenesis and tumor metastasis. The Examiner states that Zetter teaches that angiogenesis has been implicated in human cancer (citing page 409). It is respectfully submitted that a general statement that angiogenesis has been "implicated in human cancer" does not meet the Examiner's burden to establish that one skilled in the art would have had a reasonable expectation that the specific compounds recited in the claims would have been effective to treat cancer (claim 1) or to inhibit tumor growth (claim 6). Accordingly, the rejection is not properly supported and it should be withdrawn.

As noted in the specification at page 2, lines 12-21, "US Patent 6,028,061 describes and claims the use of AS in inhibiting angiogenesis based on its inhibition of FGF.... Although more than 30 years ago it was hypothesized that tumor growth is angiogenesis dependent (Folkman 1971) anti-angiogenesis activity does not predict *in vivo* tumor growth inhibition." This statement from the instant specification is supported by Zetter: "The potential use of these and other natural and synthetic angiogenic inhibitors as anticancer drugs is currently under intense investigation (Zetter Abstract – emphasis added)," and "If it were true that antiangiogenic agents could be useful in causing tumor regression, how might they be used (page 416 – emphasis added)." From these statements, it is clear that Zetter does not establish that inhibiting angiogenesis was an art recognized way of treating cancer as stated by the Examiner at page 5 of the Office Action. Rather, these statements make it clear that any perceived correlation between angiogenesis inhibitors and cancer treatment was speculative.

When the additional statements from Zetter are considered, it is respectfully submitted that the '061 patent, in combination with Zetter, would not have provided one skilled in the art with a reasonable expectation that the compounds recited in the instant claims would have been effective to treat cancer (claim 1) or to inhibit an increase in the volume or mass of a tumor (claim 6). Thus, the pending claims are not *prima facie* obvious over the '061 patent in combination with Zetter.

CONCLUSION

In light of the above remarks and amendments, claims 1-10 are believed to be in a condition for allowance. The Examiner is invited to contact Applicant's Representative at the below-listed telephone number if there are any questions regarding this Response or if prosecution of this application may be assisted thereby. If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 50-3503. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extension fees to Deposit Account 50-3503.

Respectfully submitted,

Robert J. Linhardt et al.

By their Representatives,

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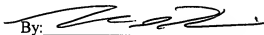
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By: 

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